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September 20, 2017

Regional Freedom of Information Officer  
U.S. EPA, Region 4  
AFC Bldg, 61 Forsyth Street, S.W., 9th Flr (4PM/IF)  
Atlanta, GA 30303-8960  
(404) 562-9891

Via Electronic Website Submission

Dear FOIA Officer:

This is a request for information pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. This request is made on behalf of the Environmental Integrity Project. This request is not for commercial use.

### **Records Requested**

This FOIA request seeks records from the United States Environmental Protection Agency (EPA), Region 4. Specifically, EIP requests Continuous Release – Emergency Response Notification System (CR-ERNS) reports, as well as any updates to these reports submitted to EPA Region 4 pursuant to Section 103(f)(2) of CERCLA within the last **5 years**, for the following facilities:

1. International Paper, located at 1785 Weyerhaeuser Rd, Vanceboro, NC 28586.
2. Blue Ridge Paper Products, located at 175 Main St, Canton, NC 28716.
3. Misschem Nitrogen LLC, located at 4612 HWY 49 East, Yazoo City, MS 39194.

### **Claims of Exemption from Disclosure**

If you regard any documents as exempt from required disclosure under the Freedom of Information Act, please exercise your discretion to disclose them nevertheless, keeping in mind that FOIA “is the most prominent expression of a profound national commitment to ensuring an open Government” and that “[a]ll agencies should adopt a presumption in favor of disclosure.” President Barack Obama, Memorandum For the Heads of Executive Departments and Agencies: Freedom of Information Act, 74 Fed. Reg. 4, 863 (Jan. 26, 2009).

In the alternative, after careful review for the purpose of determining whether any of the information is exempt from disclosure, please provide all reasonably non-exempt portions of records and communications as required by FOIA.

Should you elect to invoke an exemption, please provide the required full or partial denial letter and sufficient information to determine whether or not there may be grounds to appeal EPA’s decision. In accordance with the minimum requirements and regulations of due process, this information should include:

Basic factual material, including the originator, date, length, and addresses of the withheld items.

Explanations and justifications for denial, including the identification of the exemption applicable to the withheld information or portions of the information found to be subject to exemption, and how each exemption applies to the withheld material.

### **Request for Fee Waiver**

This request meets the case-by-case requirements for a fee waiver under EPA regulations found at 40 C.F.R. § 2.107. Each of the six factors which must be met to satisfy an EPA fee waiver request are discussed as follows:

***Factor 1. The subject of the request:*** *Whether the subject of the requested records concerns "the operations or activities of the government." The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote.*

This request seeks continuous release reporting forms submitted pursuant to the above-identified requirements set forth in CERCLA. The documents sought are clearly identifiable release reports required to be submitted to the EPA and are a part of EPA's primary operations and responsibility related to continuous air emissions monitoring.

***Factor 2. The informative value of the information to be disclosed:*** *Whether the disclosure is "likely to contribute" to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding when nothing new would be added to the public's understanding.*

The principal purpose of this request is to better understand EPA's continuous release reporting program, and whether updates by facilities to their reports are reflective of their incident reports. Appropriate identification of the type and quantity of contaminants released is important to human health and the health of the environment. Updated information is also important for accurate reporting of both state and national emissions inventories. This information is not already in the public domain.

***Factor 3. The contribution to an understanding of the subject by the public is likely to result from disclosure:*** *Whether disclosure of the requested information will contribute to "public understanding." The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public will be considered. It will be presumed that a representative of the news media will satisfy this consideration.*

As stated above, the information requested is sought to better understand the reporting process of EPA's continuous release program, and whether updates are accurately reflected in the actual emissions. The Environmental Integrity Project is a non-profit entity engaged in educating the public about environmental issues and/or taking legal or other actions necessary to ensure compliance with federal environmental laws. The requestor intends to convey this information to the public, including citizens, elected officials, policy makers, and the regulated community, in reports, position papers, interactions with the press, and other means of distribution. The Environmental Integrity Project uses their expertise to gather and publicly distribute information related to human health and the environment in a manner that is clear, transparent, and accurate.

**Factor 4. The significance of the contribution to public understanding:** *Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced significantly by the disclosure. The FOI Office will not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is "important" enough to be made public.*

The requestor intends to analyze the information sought and distribute such analysis in a transparent manner to the public. There is no online database of continuous release reporting forms available through EPA's website; thus, this information is not readily available to the public. The requestor will organize and analyze this information and disseminate in a way that will significantly increase the public's understanding of how EPA monitors and updates continuous release at applicable facilities.

**Factor 5. The existence and magnitude of a commercial interest:** *Whether the requester has a commercial interest that would be furthered by the requested disclosure. The FOI Office will consider any commercial interest of the requester or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters will be given an opportunity in the administrative process to provide explanatory information regarding this consideration.*

The information delivered in response to this request will not be used for any commercial purpose, business, trade, or profit. The requestors are public interest organizations and none have a commercial interest in this material.

**Factor 6. The primary interest in disclosure:** *Whether any identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure that disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. FOI Offices ordinarily will presume that when a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.*

This factor is satisfied because the Environmental Integrity Project has no commercial interest in disclosing the records sought.

For the above reasons, this request satisfies the fee waiver standards set forth in [40 C.F.R. § 2.107](#). However, in the event that EPA does not grant the requested waiver, please provide information concerning the specific basis for such a decision as required by EPA regulations as well as an estimate of the cost of the agency's response. In accordance with the FOIA Improvement Act of 2016, please provide responsive documents in an electronic format.

Thank you for your prompt attention to this matter. Should you need further information concerning this request, please do not hesitate to call Keene Kelderman at (202) 263-4459 or email me at [kkelderman@environmentalintegrity.org](mailto:kkelderman@environmentalintegrity.org).

Best,

Keene Kelderman, Research Analyst  
Environmental Integrity Project